

EDMUND G. BROWN JR., Attorney General
of the State of California
ALFREDO TERRAZAS
Senior Assistant Attorney General
GREGORY J. SALUTE, State Bar No. 164015
Supervising Deputy Attorney General
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-2520
Facsimile: (213) 897-2804

Attorneys for Complainant

**BEFORE THE
DEPARTMENT OF CONSUMER AFFAIRS
FOR THE BUREAU OF AUTOMOTIVE REPAIR
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 79/09-58

ARBI BAGHDANIAN
7955 Vicky Avenue
West Hills, California 91304

A C C U S A T I O N

Advanced Emission Specialist Technician License
No. EA 138989

S M O G C H E C K

Respondent.

Sherry Mehl ("Complainant") alleges:

PARTIES

1. Complainant brings this Accusation solely in her official capacity as the
Chief of the Bureau of Automotive Repair ("Bureau"), Department of Consumer Affairs.

CURRENT LICENSE

Advanced Emission Specialist Technician License

2. On a date uncertain in 1998, the Bureau issued Advanced Emission
Specialist Technician License Number EA 138989 ("technician license") to Arbi Baghdanian
("Respondent"). The technician license was inactive from March 31, 2004, to April 20, 2004.
The technician license will expire on March 31, 2010.

///

///

1 Director of Consumer Affairs, or a court of law, or the voluntary surrender of the license shall
2 not deprive the Director of jurisdiction to proceed with disciplinary action.

3 9. Section 44072.8 of the Health and Safety Code states:

4 “When a license has been revoked or suspended following a hearing under this
5 article, any additional license issued under this chapter in the name of the licensee may be
6 likewise revoked or suspended by the director.”

7 **COST RECOVERY**

8 10. Code section 125.3 provides, in pertinent part, that a Board may request
9 the administrative law judge to direct a licensee found to have committed a violation or
10 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
11 and enforcement of the case.

12 **UNDERCOVER OPERATION - MARCH 19, 2008**

13 11. On or about March 19, 2008, a Bureau undercover operator using the alias
14 Mathew Fulton (“operator”) drove a Bureau documented 2000 Chrysler Cirrus, California
15 License Plate No. 4PDN605, to Smog City¹ for a smog inspection. The vehicle could not pass
16 the visual portion of the smog inspection because the positive crankcase ventilation system
17 (“PCV”) was missing various components. Respondent performed the smog inspection using the
18 personal access code of Girmai Gabremadhin. Respondent issued electronic Certificate of
19 Compliance No. MY799945, certifying that he had tested and inspected the 2000 Chrysler Cirrus
20 and that the vehicle was in compliance with applicable laws and regulations. In fact, the vehicle
21 could not have passed the visual portion of the smog inspection because the vehicle’s PCV
22 system was missing various components.

23 ///

24 ///

26 1. On October 18, 2007, Automotive Repair Dealer Registration No. ARD 252181 and
27 Smog Check Test Only Station License No. TC 252181 were issued to Girmai Gabremadhin as
28 the new owner of Smog City. As a result of the undercover operation on March 19, 2008, first
level citations were issued against Girmai Gabremadhin’s registration and station license.

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Violations of the Motor Vehicle Inspection Program)**

3 12. Respondent has subjected his technician license to discipline under Health
4 and Safety Code section 44072.2, subdivision (a), in that on or about March 19, 2008, regarding
5 the 2000 Chrysler Cirrus, he violated sections of that Code, as follows:

6 a. **Section 44012, subdivision (a):** Respondent failed to determine that all
7 emission control devices and systems required by law were installed and functioning correctly in
8 accordance with test procedures.

9 b. **Section 44012, subdivision (f):** Respondent failed to perform emission
10 control tests on those vehicles in accordance with procedures prescribed by the department.

11 c. **Section 44032:** Respondent failed to perform tests of the emission
12 control devices and systems on that vehicle in accordance with section 44012 of that Code, in
13 that the vehicle had been clean piped.

14 d. **Section 44059:** Respondent willfully made false entries for electronic
15 Certificate of Compliance No. MY799945 for that vehicle, certifying that the vehicle had been
16 inspected as required when, in fact, it had not.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Violations of Regulations Pursuant to the Motor Vehicle Inspection Program)**

19 13. Respondent has subjected his technician license to discipline under Health
20 and Safety Code section 44072.2, subdivision (c), in that on or about March 19, 2008, regarding
21 the 2000 Chrysler Cirrus, he violated sections of the California Code of Regulations, title 16, as
22 follows:

23 a. **Section 3340.24, subdivision (c):** Respondent falsely or fraudulently
24 issued electronic Certificate of Compliance No. MY799945 for that vehicle without performing a
25 bona fide inspection of the emission control devices and systems on that vehicle as required by
26 Health and Safety Code section 44012.

27 b. **Section 3340.30, subdivision (a):** Respondent failed to inspect and test
28 that vehicle in accordance with Health and Safety Code section 44012.

1 c. **Section 3340.41, subdivision (c):** Respondent entered false information
2 into the Emission Inspection System ("EIS") by entering "Pass" for the visual portion of the
3 smog inspection when, in fact, the vehicle could not pass the visual portion of the smog
4 inspection because the vehicle's PCV system was missing various components.

5 d. **Section 3340.42:** Respondent failed to conduct the required smog tests
6 and inspections on that vehicle in accordance with the Bureau's specifications.

7 **THIRD CAUSE FOR DISCIPLINE**

8 **(Dishonesty, Fraud or Deceit)**

9 14. Respondent has subjected his technician license to discipline under Health
10 and Safety Code section 44072.2, subdivision (d), in that on or about March 19, 2008, he
11 committed acts involving dishonesty, fraud or deceit whereby another was injured by issuing
12 electronic Certificate of Compliance No. MY799945 for the 2000 Chrysler Cirrus without
13 performing a bona fide inspection of the emission control devices and systems on that vehicle,
14 thereby depriving the People of the State of California of the protection afforded by the Motor
15 Vehicle Inspection Program.

16 **PRIOR CITATIONS**

17 15. To determine the degree of discipline, if any, to be imposed on
18 Respondent, Complainant alleges while the owner of Automotive Repair Dealer Registration No.
19 ARD 210415, Smog Check Station License No. TE 210415, and Advanced Emission Specialist
20 Technician License No. EA 138989, the Bureau issued the following citations to Respondent:

21 a. On or about November 30, 2006, the Bureau issued Citation No.
22 C07-0333 against Respondent's registration and station licenses for violations of Health & Safety
23 Code section 44012, subdivision (f) (failure to perform a visual/functional check of emission
24 control devices according to procedures prescribed by the department), and California Code of
25 Regulations, title 16, section ("Regulation") 3340.35, subdivision (c) (issuing a certificate of
26 compliance to a vehicle that was improperly tested), for issuing a certificate of compliance to a
27 Bureau undercover vehicle with the ignition timing adjusted beyond manufacturer's

28 ///

1 specifications. The Bureau assessed civil penalties totaling \$500 against Respondent for the
2 violations. Respondent complied with this citation on February 7, 2007.

3 b. On or about November 30, 2006, the Bureau issued Citation No.
4 M07-0334 against Respondent's technician license for violations of Health & Safety Code
5 section 44032, (failure to perform a visual/functional check of emission control devices
6 according to procedures prescribed by the department), and Regulation 3340.30, subdivision (a)
7 (issuing a certificate of compliance to a vehicle that was improperly tested), for issuing a
8 certificate of compliance to a Bureau undercover vehicle with the ignition timing adjusted
9 beyond the manufacturer's specifications. The Bureau directed Respondent to complete an
10 8-hour training course. Respondent complied with this citation on February 7, 2007.

11 c. On or about March 26, 2007, the Bureau issued Citation No. C07-0674
12 against Respondent's registration and station licenses for violations of Health & Safety Code
13 section 44012, subdivision (f) (failure to perform a visual/functional check of emission control
14 devices according to procedures prescribed by the department), and Regulation 3340.35,
15 subdivision (c) (issuing a certificate of compliance to a vehicle that was improperly tested), for
16 issuing a certificate of compliance to a Bureau undercover vehicle with a missing pulse air
17 injection system. The Bureau assessed civil penalties totaling \$1,000 against Respondent for the
18 violations. Respondent appealed this citation on May 24, 2007. Effective November 2, 2007,
19 pursuant to a Decision and Order, the citation was upheld; however, Respondent failed to comply
20 with the citation.

21 d. On or about March 26, 2007, the Bureau issued Citation No. M08-0675
22 against Respondent's technician license for violations of Health & Safety Code section 44032,
23 (failure to perform a visual/functional check of emission control devices according to procedures
24 prescribed by the department), and Regulation 3340.30, subdivision (a) (issuing a certificate of
25 compliance to a vehicle that was improperly tested), for issuing a certificate of compliance to a
26 Bureau undercover vehicle with a missing pulse air injection system. The Bureau directed
27 Respondent to complete a 16-hour training course. Respondent appealed this citation on May 24,

28 ///

1 2007. Effective November 2, 2007, pursuant to a Decision and Order, the citation was upheld;
2 however, Respondent complied with this citation on January 7, 2008.

3 e. On or about July 27, 2007, the Bureau issued Citation No. C08-0066
4 against Respondent's registration and station licenses for violations of Health & Safety Code
5 section 44012, subdivision (f) (failure to perform a visual/functional check of emission control
6 devices according to procedures prescribed by the department), and Regulation 3340.35,
7 subdivision (c) (issuing a certificate of compliance to a vehicle that was improperly tested), for
8 issuing a certificate of compliance to a Bureau undercover vehicle with a missing positive
9 crankcase ventilation system. The Bureau assessed civil penalties totaling \$2,000 against
10 Respondent for the violations. Respondent appealed this citation on October 5, 2007. Effective
11 March 20, 2008, pursuant to a Default Decision and Order, the citation was upheld; however,
12 Respondent failed to comply with the citation.

13 f. On or about July 27, 2007, the Bureau issued Citation No.M08-00067
14 against Respondent's technician license for violations of Health & Safety Code section 44032,
15 (failure to perform a visual/functional check of emission control devices according to procedures
16 prescribed by the department), and Regulation 3340.30, subdivision (a) (issuing a certificate of
17 compliance to a vehicle that was improperly tested), for issuing a certificate of compliance to a
18 Bureau undercover vehicle with a missing positive crankcase ventilation system. The Bureau
19 directed Respondent to complete a basic clean air course. Respondent appealed this citation on
20 October 5, 2007. Effective March 20, 2008, pursuant to a Default Decision and Order, the
21 citation was upheld. Respondent complied with this citation on March 30, 2008.

22 **OTHER MATTERS**

23 16. Under Health and Safety Code section 44072.8, if Advanced Emission
24 Specialist Technician License Number EA 138989, issued to Arbi Baghdanian, is revoked or
25 suspended, any additional license issued under this chapter, including but not limited to Smog
26 Check Station License No. TE 210415, or any other license in the name of said licensee may be
27 likewise revoked or suspended by the director.

28 ///

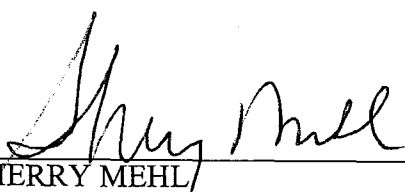
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Director of Consumer Affairs issue a decision:

1. Revoking or suspending Advanced Emission Specialist Technician License Number EA 138989, issued to Arbi Baghdanian;
2. Revoking or suspending any additional license issued under this chapter in the name of Arbi Baghdanian, including but not limited to Smog Check Station License No. TE 210415;
3. Ordering Arbi Baghdanian to pay the Bureau of Automotive Repair the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,
4. Taking such other and further action as deemed necessary and proper.

DATED: 12/17/08


SHERRY MEHL
Chief
Bureau of Automotive Repair
Department of Consumer Affairs
State of California
Complainant